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Notice of Tax Collection Activities

Department of the Treasury

Bureau of Alcohol, Tobacco and Firearms

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NOTICE OF TAX COLLECTION ACTIVITIES

INTRODUCTION

This publication explains the tax collection process which can result in the Government initiating a levy action against your property for failure to pay taxes due. A levy is the taking of property to satisfy a tax liability. These procedures are explained in detail. The notice also notes alternatives which are available to you to prevent these measures from taking place.

This document is for informational purposes only and is not intended as a precise and technical analysis of the law. It does not authorize any action or in any manner constitute taxpayer advice; it merely points out options available to you.

As used in this publication, the words "tax" and "taxes" refer to excise, special occupational, transfer and making taxes within the jurisdictional area of responsibility of the Bureau of Alcohol, Tobacco and Firearms and are used to inclusively "identify taxes due, interest, additional amounts due, additions to the tax, and assessable penalties."

LIABILITY FOR UNPAID TAXES

Notice and Demand. Each tax return filed with the Bureau is checked for accuracy. If all tax has not been paid, whether or not a return has been filed, we will send you a bill which is a notice of tax due and demand for payment (including tax, penalties and interest). Under normal circumstances you will be given 30 days from the date of the bill to pay before we will initiate an enforced collection action. However, if we have reason to believe collection is endangered we may issue a notice and demand for immediate payment. If you fail to make immediate payment, enforced collection action may be taken. Enforced collection action ensures payment of your liability and could result in levy or lien action against your property.

ENFORCED COLLECTION POLICY

Enforced collection action includes the filing of a Notice of Federal Tax Lien, the serving of a Notice of Levy and/or the seizure and sale of your property (personal and/or business).

Notice of Federal Lien. If we learn that you, as a taxpayer, owe tax to the Government, we will initiate an assessment which establishes our right to the tax money in question. When we enter an assessment, a statutory tax lien attaches to your property and rights to property. Once notice and demand for payment is sent and you neglect or refuse to pay the tax, we may file a Federal tax lien to protect the interests of the Government against the claims of other creditors. This is a public notice to your creditors that a tax lien exists against your property, including property acquired after the lien is filed.

Once this notice is filed IT CAN HARM YOUR CREDIT RATING as well as become A MATTER OF PUBLIC RECORD. Only you can stop this action from taking place.

A tax lien will be released and a certificate of release issued within 30 days after: (1) full payment of the tax liability (including interest and other additions to the tax); (2) the lien has become legally unenforceable; or (3) the taxpayer provides us with a proper bond conditioned upon payment of the tax assessed and interest due. All fees charged by the state or other jurisdiction for both filing and releasing a Notice of Federal Tax Lien will be added to the balance you owe. In some situations prior to payment of the tax liability, a certificate of discharge may be issued to the taxpayer for particular items of property subject to a tax lien, or a certificate of subordination may be issued to subordinate the tax lien to another lien. Contact the office shown on the tax bill if you are interested in a certificate of discharge or a certificate of subordination.

Levy. A levy is the taking of property to satisfy a tax liability. Once notice and demand is sent to you and you neglect or refuse to pay the tax, a levy may be made upon any property or rights to property belonging to you or on which there is a lien. We can make a levy on property in your possession or in the possession of third parties. This means a levy can be made on your bank accounts, your wages, etc.

Once served, a levy on salary or wages continues in effect until the levy is released. A levy may be released if:

1. the liability for which such levy was made is satisfied or becomes unenforceable by reason of lapse of time; or

2. release of such levy will facilitate the collection of the liability; or

3. the taxpayer has entered into an installment agreement to satisfy such liability, unless the agreement provides otherwise and release does not jeopardize the secured status of the Government's lien; or

4. we have determined that such levy is creating an economic hardship due to the financial condition of the taxpayer; or

5. the fair market value of the property exceeds such liability and release of the levy on a part of such property could be made without hindering the collection of such liability.

Generally, court authorization is not required before levy action is taken unless Collection personnel must enter into private premises to accomplish the levy action (actual seizure of property). There are three legal requirements before levy action can be taken:

1. the tax must be owed;

2. a notice and demand for payment must have been sent to your last known address and,

3. if payment is not made, a notice of intent to levy must be given to you at least thirty days in advance. Such notice may be given to you in person, left at your dwelling or usual place of business, or sent by certified or registered mail to your last known address. THIS DOCUMENT IS THE NOTICE OF INTENT TO LEVY.

HOWEVER, IF COLLECTION IS IN JEOPARDY, THE 30-DAY WAITING PERIOD AND THE NOTICE OF INTENT TO LEVY ARE NOT REQUIRED. A JEOPARDY LEVY IS PURSUED IN THIS SITUATION.

If a jeopardy levy is made, you may request (within 30 days) that the Internal Revenue Service make a redetermination of the levy. If you are dissatisfied with the redetermination decision, then you may seek judicial review of the jeopardy levy in the United States District Court. The judicial review action must be filed with the court within 90 days after we have made the redetermination or within the 90 day period

starting after the 16th day after you requested we make the redetermination, whichever is later. You must allow us 16 days to make the redetermination before filing the judicial review action.

The following types of property are exempt from levy by Federal law:

1. Wearing apparel and school books. However, expensive items of wearing apparel such as furs are luxuries and are not exempt from levy.

2. Fuel, provisions, furniture and personal effects, not to exceed $1,650 ($1,550 in calendar year 1989) in value (for the head of household).

3. Books and tools used in your trade, business or profession, not to exceed $1,100 ($1,050 in calendar year 1989) in value.

4. Unemployment benefits.

5. Undelivered mail.

6. Certain annuity and pension payments.

7. Certain service-connected disability payments.

8. Workmen's compensation.

9. Salary, wages or other income subject to a prior judgment for court-ordered child support payments.

10. Deposits to the special Treasury fund made by members of the Armed Forces and Public Health Service employees on permanent duty assigned outside the United States or its possessions.

11. A minimum exemption for wages, salary and other income equal to the sum of the standard deduction and the aggregate amount of the deductions for personal exemptions you take in the tax year in which the levy occurs, divided by 52.

12. Certain Public Assistance Payments.

    a. Title VI (relating to aid for families with dependent children or Title XVI (relating to supplemental security income for the aged, blind or disabled) of the Social Security Act.

    b. State or local government public assistance or public welfare programs for which eligibility is determined by a needs or income test.

13. Assistance under the Job Training Partnership Act.

14. Principal residence except when we determine that the collection of the tax is in jeopardy or when we notify you in writing of our intent to levy the property.

NOTE: IF YOU DISAGREE WITH THE VALUE IRS PLACES ON THE PROPERTY SUBJECT TO LEVY, YOU MAY REQUEST A VALUATION BY THREE DISINTERESTED INDIVIDUALS.

Seizures and Sales. Any type of real or personal property you own or in which you have an interest (including residential and business property) may be seized and sold to satisfy your tax bill. After seizure, IRS will give notice to you and the public about the proposed sale. Unless the property is perishable and must be sold immediately, the sale cannot occur less than 10 days after the public notice or more than 40 days after the public notice. Prior to sale, a minimum acceptable price that we will accept for the property will be computed and you will be advised of the amount. If you are in disagreement, you may request a Service Valuation Engineer or a private appraiser to assist IRS employees in recomputing the minimum price. If no person purchases the property at the public sale, the property shall be declared sold to the United States at the minimum price.

A seizure may not be made on any property if the cost of the seizure exceeds the fair market value of the property to be seized, at the time of the seizure.

No seizure may be made on the date you appear in response to an administrative summons unless jeopardy exists.

Before the date of the sale, we may release the property to you if you pay an amount equal to the amount of the Government's interest in the property, enter into an escrow agreement, furnish an acceptable bond or make an acceptable agreement for payment of the tax.

You also have the right to redeem your property at any time prior to the sale. Redemption consists of paying the tax due, including interest and penalties, together with the expenses of the seizure.

After the sale, proceeds are applied first to the expenses of the levy and sale. The remaining amount is then applied against the tax bill. If the sale proceeds are less than the tax bill and expenses of levy and sale, you will still be liable for the remaining unpaid tax. When sale proceeds exceed the tax bill and expenses of levy and sale, we will hold the surplus money pending a request for distribution. Unless a person, such as a mortgagee or other lienholder, submits a claim superior to yours, these excess funds will be credited or refunded to you upon request.

Real estate may be redeemed at any time within 180 days after the sale by paying the purchaser the amount he/she paid for the property plus interest of 20% per annum.

Effective January 1, 1989, you, as the owner of any property seized by levy, may request that we sell such property within 60 days (or within such longer period as may be specified by you). We will comply with such request unless we determine (and notify you within such period) that such compliance would not be in the best interests of the United States.

PAYMENT PROCEDURES

Tax Bill Contains Error. If you have reason to believe your bill is incorrect, you should immediately reply in writing to the address shown on the bill. Enclose, with your reply, copies of any documents that can substantiate your position. If you are correct, we will make the necessary adjustments and send you a new statement showing amount of tax, penalty and interest due, if any.

Unable to make full payment. If you are financially unable to make your payment in full, contact us immediately regarding the problem. To allow us to determine how you are best able to pay the amount due, we may ask you to complete a Statement of Financial Condition and Other Information, ATF Form 433 (5640.4). This will assist us in working out the best payment plan.

If you hold an asset which can readily be sold, you may be asked to do so to pay your taxes. If it is determined you are unable to do so, you may be asked to secure a commercial loan. If you neglect or refuse to pay in full, enforced collection action may be taken against you.

Installment Payments. If it is determined that payment can only be made by installment, you may be requested to prepare a form itemizing your monthly income and expenses to determine the maximum amount you can pay monthly.

Once an installment agreement has been executed, each payment MUST be made on time. If you are unable to timely make your payment, you must immediately notify us of the circumstances. You are also liable for all future taxes as they become due. During the time you are making payments interest will still accrue.

During the time you are making payments, a Notice of Federal Tax Lien may be filed to secure the Government's interest until the final payment is made. From time to time we may also require you to update your statement of financial condition to see if your payments can be increased. Failure to provide financial information when requested may default the agreement. If we determine that your financial condition has significantly changed, we may alter, modify, or terminate the installment agreement. If we decide to take such action, we will notify you of the basis of the determination no later than 30 days prior to the date the action is to take effect.

We may terminate the installment agreement if we determine that collection of the tax to which the agreement relates is in jeopardy or that the financial condition information on which the agreement is based is inaccurate or incomplete.

If you fail to make your installment payments, pay any other tax liability at the time it becomes due, or provide a financial condition update as requested, enforced collection action may be taken against you.

Delayed Collection. If we determine that you cannot make any payment toward your liability, we may temporarily delay collection until your financial condition improves. This does not mean your debt is forgiven, or that the penalty for late payment and interest stop accruing. We may file a Notice of Federal Tax Lien to

protect the Government's interest during this period.

Bankruptcy Proceedings. If you are a debtor in an ongoing bankruptcy, do not pay the tax bill you receive from us without first consulting ATF. Bankruptcy proceedings do not necessarily relieve your obligation to pay; however, they may lead to a temporary stay of collection.

CLAIM PROCEDURE FOR REFUND OR CREDIT

Once you have paid your tax bill in full, you have the right to file a claim for refund or credit if you feel the bill is erroneous. You can obtain the necessary forms and information about filing your claim by contacting an office of the Bureau. You should file your claim by mailing it to the address on the tax bill. A separate form (ATF Form 2635 (5620.8)) must be filed for each return period involved. You should include on the form a statement to support your claim.

You must file a claim for refund or credit within three years from the date the return was filed (returns filed before the due date are considered to have been filed on the due date) or within two years from the date the tax was paid, whichever date is later.

If we reject your claim, you will receive a statutory notice of disallowance. After receiving a notice of disallowance, you may file a suit for refund in a U.S. District Court or in the U.S. Claims Court. You must file suit within 2 years from the date the notice of disallowance is mailed to you. Also, if we have not acted on your claim within six months from the date you filed it, you may then file suit for refund.

TAXPAYER RIGHTS

Representation. In dealing with the Internal Revenue Service, you may represent yourself, or be represented by an attorney, a certified public accountant or an individual enrolled to practice before the Internal Revenue Service. In dealing with the Bureau of Alcohol, Tobacco and Firearms, you may represent yourself or be represented by an attorney, a certified public accountant or an individual who is enrolled to practice before the Bureau.

Transfer of your tax case. You have the right to request that your case be transferred to another location. Generally, your request will be honored if you have a valid reason, such as a change of address before or during the resolution of your tax case.

Entry Upon Private Property. You also have the right to

refuse to permit collection personnel to enter upon your private property when the purpose of the visit is to conduct a seizure of your assets. However, if you elect to enforce this right, court authorization to enter upon the property may be obtained.

Receipts. You have the right to a receipt for any payment you make, including a receipt for all cash payments. You also have the right to receive copies of all contractual arrangements (such as installment agreements) made with us.

Reimbursement of Bank Charges Due to Erroneous Levy. You may be entitled to reimbursement for fees charged by your bank if we erroneously levy your account. Your claim must be filed within one year after being charged with the fee.

Penalty Adjustments - Reasonable Cause. The Internal Revenue Code provides for elimination of penalties for the late filing of a return or late payment of a tax if you can show reasonable cause.

Reasonable cause, broadly defined, is a cause which arises despite ordinary care and prudence exercised by you. You must submit, in writing, a statement setting forth the facts establishing reasonable cause. Merely being unaware of or ignorant of the law is not considered to be reasonable cause.

Offers in Compromise. The Director, Bureau of Alcohol, Tobacco and Firearms, has the authority to compromise all taxes (including any penalty, additional amount or addition to tax) administered by the Bureau under the Internal Revenue Code. By law you have the right to submit an offer in compromise. However, interest alone cannot be compromised; the compromise of interest may only occur if there is also a compromise of the tax liability on which the interest is based.

A compromise may be made on one or both of two grounds - (1) doubt as to your liability for the amount owed, or (2) doubt as to your ability to make full payment of the amount owed. Doubt as to your liability for the amount owed must be supported by evidence and the amount acceptable will depend upon the degree of doubt found in the particular case. In case of inability to pay, the amount you offer must exceed the total value of the equity in all your assets except those exemptions referred to earlier in this publication. The amount offered must also give sufficient consideration to your present and future financial situation.

If your offer is acceptable, we may require a written

agreement to pay a percentage of future earnings as part of the offer. A written agreement may also be required to relinquish certain present or potential tax benefits.

Submission of an offer in compromise does not automatically suspend collection action regarding your account. If there is any indication that the filing of the offer is solely for the purpose of delaying collection of the tax or that delay would negatively affect collection of the tax, we will continue collection efforts.

All forms necessary for filing an offer in compromise plus additional information regarding procedures can be obtained from the nearest office of the Bureau.

Confidentiality of Tax Matters. If your property is seized or a Notice of Federal Tax Lien or lawsuit is filed, certain aspects of your tax case, such as the amount of tax due and type of tax owed, may become a matter of public record.

Managerial Review of Employee Decisions. You have the right to be treated fairly, professionally, promptly and courteously by Treasury employees at all times. If at any step in the collection process you do not agree with an employee, you have the right to discuss the matter with his/her supervisor. Our employees will give you the name and telephone number of the person to be contacted.

If you are unable to discuss the situation with the employee's supervisor, you should then contact the Internal Revenue Service (IRS) Problem Resolution Program Manager (PRP), if your case is being processed by the IRS. The PRP provides an avenue or appeal when you believe that the liability is incorrect or you feel your rights have been abridged. If your case is being processed by the Bureau of Alcohol, Tobacco and Firearms, you may contact the Chief, Field Operations or Chief, Technical Services, as appropriate. Addresses and telephone numbers for the Bureau of Alcohol, Tobacco and Firearms offices are shown on the last page of this document. Telephone numbers for IRS offices may be obtained from your local directory or telephone operator.

If you suffer or are about to suffer a significant hardship because of the administration of the tax laws and your case is being processed by IRS, you may request assistance on IRS Form 911, Application to Relieve Hardship. The IRS Taxpayer Ombudsman or a Problem Resolution

Officer will review your application and may issue a Taxpayer Assistance Order (TAO). You can get copies of Form 911 in IRS offices or by calling toll-free 1-800-424-FORM (3676). If your case is being processed by ATF, you may contact the appropriate chief. You would contact the Chief, Field Operations if you have been contacted by an ATF inspector; the Chief, Technical Services if your contact has been with an ATF Specialist.

PRIVACY ACT & PAPERWORK REDUCTION ACT NOTICE

When we ask for information, we are required under the Privacy Act of 1974 and Paperwork Reduction Act of 1980 to tell you the following:

a. Our legal right to ask for the information.

b. What major purposes we have in asking for it, and how it will be used.

c. What could happen if we do not receive it.

d. Whether your response is voluntary, required to obtain a benefit, or mandatory under the law.

Our legal right to ask for information is found in Internal Revenue Code sections 6001 and 6011 and the regulations which implement these sections of the law.

Also, under the provisions of the Internal Revenue Code, section 6109, you must also furnish either your employee identification number or your social security number for identification purposes.

If you do not file a return, do not provide the information we ask for, or provide fraudulent information, the law provides that you may be charged penalties and, in certain cases, you may be subject to criminal prosecution.

Please keep this notice with your records. It may help if we ask you for other information. If you have any

STATES	ADDRESS AND TEL.
Alabama, Florida, Georgia, Mississippi, North Carolina, South Carolina, Tennessee, Virginia	Bureau of Alcohol, Tobacco and Firearms 3835 Presidential Pa Atlanta, GA 30340 (404) 986-8030
Illinois	Bureau of Alcohol, Tobacco and Firearms 230 South Dearborn S Chicago, IL 60604 (312) 353-3683
Indiana, Kentucky, Michigan, Minnesota, North Dakota, Ohio, South Dakota, West Virginia, Wisconsin	Bureau of Alcohol, Tobacco and Firearms Federal Office Buildin 550 Main Street Cincinnati, OH 45202 (513) 684-3334
Arkansas, Colorado, Iowa, Kansas, Louisiana, Missouri, Nebraska, New Mexico, Oklahoma, Texas, Wyoming	Bureau of Alcohol, Tobacco and Firearms 1114 Commerce St. 7 Dallas, TX 75242 (214) 767-2261
New York	Bureau of Alcohol, Tobacco and Firearms 6 World Trade Center, New York, NY 10048 (212) 264-2106
Connecticut, District of Columbia, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New Jersey, Pennsylvania, Rhode Island, Vermont	Bureau of Alcohol, Tobacco and Firearms 641 Chestnut Building Philadelphia, PA 1910 (215) 597-4107
Alaska, Arizona, California, Hawaii, Idaho, Montana, Nevada, Oregon, Utah, Washington	Bureau of Alcohol, Tobacco and Firearms 221 Main Street, 11th San Francisco, CA 94 (415) 974-9582
Puerto Rico	Chief, Puerto Rico Op Bureau of ATF Federico Degetau Fed 6th Floor, Room 659 Carlos Chardon Avenu Hato Rey, PR 00918 (809) 766-5062

BUREAU OF ALCOHOL, TOBACCO AND FIREARMS